

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7870 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHMAD YUSUF @ KALIYO @ BHOYO ADAMBHAI GHANCHI

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

Mr Kamal Mehta, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 05/11/96

ORAL JUDGEMENT

It is now well settled that on some stray and casual act, a detainee cannot be branded as "dangerous person" within the meaning of section 2 (c) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act'). Reference may be made to a decision of the Apex Court in the case

of Mustakmiya Jabbarmiya Shaikh v. M M Mehta, Commissioner of Police, Ahmedabad, reported in 1995 (3) SCC 237. With the assistance of the learned Advocates, I have perused the materials available on record. There is nothing on record to show on the basis of which the petitioner can be branded as "dangerous person" under section 2(c) of the PASA Act. In view of this, in my opinion, the order of detention is illegal and not sustainable.

2. In the result, this Special Civil Application is allowed. The order of detention dated 12.7.1996 is quashed and set aside. The petitioner shall be released forthwith if not required in any other case.

Rule made absolute accordingly.

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